

**MAINE EMS
INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, AUGUST 5, 2009
DE CHAMPLAIN CONFERENCE ROOM, AUGUSTA
RATIFIED BY THE MAINE EMS BOARD ON SEPTEMBER 2, 2009
MEETING MINUTES**

Present: Paul Knowlton, Robert Hand, Rick Doughty, and Lori Metayer

Staff: Dawn Kinney and Alan Leo

AAG: Lara Nomani, AAG

1. **Call To Order:** The meeting was called to order at 9:10 a.m.
2. **Business:** The Committee reviewed case #09-10 and held informal conferences on cases #09-16, #9-09, #09-17, #09-18, #09-19, #09-20 and #09-14 and made the recommendations which are outlined below:
3. **Application:** The committee reviewed two new applications and made the recommendations which are outlined below:
4. **Other:** The committee directed staff to take the Guidelines for Disciplinary Actions Regarding Unlicensed Providers and Services to the Board seeking clarification as to:
 - A. Whether these guidelines are discretionary or mandatory.
 - B. Whether these guidelines apply to Emergency Medical Dispatchers and Centers.
5. **Next Meeting:** The next meeting is scheduled for Wednesday October 7, 2009 at 9:00 a.m.
6. **Adjourn:** The meeting was adjourned at 4:30 p.m.

COMPLAINT/INVESTIGATIONS CASE:

1. CASE # 09-10 - Licensee Not Present

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-10 Motion: To enter executive session pursuant to 1 M.R.S.A. §405(6)(F) for discussing matters which are confidential by statute (Doughty; Knowlton – motion carries). The committee entered executive session at 4:00 p.m. and executed at 4:15 p.m. During executive session, the committee reviewed the status of the investigation and discussed options for disposition of case # 09-10.

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that the Board dismiss this case upon a finding that the complaint is factually unfounded, as the committee found no facts that the Service is in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(34) - Aiding the practice of emergency medical treatment by a person not duly licensed under 32 M.R.S.A., Chapter 2-B. Specifically, the unlicensed provider was removed from the service's schedule and was self dispatched to the scene utilizing an unauthorized service EMS vehicle.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Licensee removed the unlicensed provider from the service's schedule; and

- Unlicensed provider was self dispatched to the scene utilizing an unauthorized service EMS vehicle.

RECOMMENDED ACTION:

- 1) **That this case be dismissed.**

The Committee will consider case # 09-10 resolved and closed upon the ratification by the Board.
(Doughty; Knowlton – motion carries)

INFORMAL CONFERENCES:

1. **CASE # 09-16 - Licensee Present** – Robert Hand recused himself due to his past employment with the Licensee.

The committee entered executive session for the purpose of reviewing investigation and discussing case #09-16. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 09-16. (Doughty; Knowlton – motion carries). The committee entered executive session at 10:55 a.m. and exited at 11:40 a.m. During executive session, the committee met with Licensee, and discussed options for disposition of case # 09-16.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the Service allowed an unlicensed provider to respond on its behalf, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(34) - Aiding the practice of emergency medical treatment by a person not duly licensed under 32 M.R.S.A., Chapter 2-B. Specifically, the service allowed an unlicensed provider to respond on its behalf on thirteen calls.

Aggravating Circumstances:

- A break down in mid level communications resulted in this service having a third offense of this nature in three years.

Mitigating Circumstances:

- The service self reported the violation;
- The service has taken steps to correct this from happening again;
- The service took steps internally to discipline to supervisor; and,
- The service did not violate the current Consent Agreement.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following condition:

- 1) A reprimand.
- 2) A fine of \$200.00 per violation for a total of \$2,600.00 to be paid in full at the time of execution by the parties.

The Committee will consider case # 09-16 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Metayer; Knowlton - motion carries).

2. CASE # 09-09 - Licensee was not present but had been noticed of the Informal Conference and notified MEMS that Licensee would be attending. Licensee did not respond to a request from MEMS staff for information.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-09. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 09-09. (Doughty; Knowlton – motion carries). The committee entered executive session at 12:45 p.m. and exited at 1:05 p.m. During executive session, the committee discussed options for disposition of case # 09-09.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the Licensee's license expired on February 28, 2008 and that the Licensee continued to respond and provide emergency medical treatment, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11 §(1)(30) - Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted. Specifically, the Licensee continued to respond to one call and provide patient care.

Aggravating Circumstances:

- The licensee did not self report;
- The licensee self dispatched to the scene;
- The licensee used an unauthorized service EMS vehicle; and

Mitigating Circumstances:

- This was an isolated incident; and
- The Licensee had no history of prior disciplinary action.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following condition:

- 1). A reprimand.
- 2). A fine of 750.00 with all but \$500.00 suspended.

The Committee will consider case # 09-09 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Metayer; Knowlton - motion carries).

3. CASE # 09-18 - Licensee present. Robert Hand disclosed that he knew the Licensee, but stated he could give an unbiased and professional opinion. Licensee had no objections to Mr. Hand participating in the informal conference.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-18. Motion: To enter executive session pursuant to 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference. (Doughty; Knowlton – motion carries). The committee entered executive session at 1:10 p.m. and executed at 1:25 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 09-18.

Case Summary and Rules Violation: After discussion, Rick moved to recommend that the Board find that the Service allowed an unlicensed provider to respond on its behalf, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11§ (1)(34) - Aiding the practice of emergency medical treatment by a person not duly licensed under 32 M.R.S.A., Chapter 2-B. Specifically, the service allowed an unlicensed provider to respond on its behalf on one call.

Aggravating Circumstances:

- Licensee's current policy was inadequate to prevent this from happening.

Mitigating Circumstances:

- Licensee self reported to Maine EMS the following day;
- Licensee upgraded the current policy to prevent a reoccurrence;
- This was an isolated incident;
- Licensee very cooperative with the committee; and
- Licensee does not bill patients.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following conditions:

- 1) A reprimand;
- 2) The Licensee shall pay a fine of \$100.00 with all but \$50.00 suspended; and
- 3) The fine will be due at the time of execution of the Consent Agreement.

The Committee will consider case # 09-18 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Doughty; Metayer - motion carries).

4. CASE # 09-19 – Licensee present *

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-19. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 09-19. (Doughty; Hand – motion carries). The committee entered executive session at 1:20 p.m. and exited at 2:05 p.m. During executive session, the committee met with Licensee and discussed options for disposition of case # 09-19.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the Licensee's license expired on September 30, 2008 and that the Licensee continued to respond and provide emergency medical treatment, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11 §(1)(30) - Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted. Specifically, the Licensee continued to respond to one call and provide patient care.

Aggravating Circumstances:

- Was not licensable at the time he provided patient care.

Mitigating Circumstances:

- This was an isolated incident; and
- The Licensee had no history of prior disciplinary action.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following condition:

- 1). A reprimand.

The Committee will consider case # 09-19 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Metayer; Knowlton - motion carries).

5. CASE #09-20 – Licensee present with attorney

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-20. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 09-20. (Doughty; Knowlton – motion carries). The committee entered executive session at 2:15 p.m. and exited at 2:40 p.m. During executive session, the committee met with Licensee, town attorney, and discussed options for disposition of case # 09-20.

Case Summary and Rules Violation: After discussion, the committee recommends that this case be tabled until further notice.

6. CASE # 09-14 – Licensee present with attorney

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-14. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(E)(F) for receiving legal advice and for the purpose of conducting an informal conference concerning case # 09-14. (Doughty; Knowlton – motion carries). The committee entered executive session at 2:15 p.m. and exited at 2:40 p.m. During executive session, the committee met with Licensee and his attorney, and discussed options for disposition of case # 09-14.

Case Summary and Rules Violation: After discussion Doughty moved to recommend that Board find that the Licensee's practice issues violated Maine EMS Rules (dated September 1, 2006) Chapter 11 § 1(30) Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted, and Chapter 11 §1(35) Delegation of practice, skills or treatment to a person who is not licensed or qualified to perform said practice, skills or treatment. Specifically, Licensee presented as a LifeFlight Nurse during a non-LifeFlight call. During the course of the call, the Licensee provided emergency medical treatment beyond the scope of practice permitted by EMT-Basic licensure and delegated treatment to an EMS provider who was not trained in the procedure.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- The Licensee was related to the patient;
- The Licensee requested a LifeFlight helicopter but it was not available;
- The Licensee sought medical direction from LifeFlight staff prior to performing patient care;
- This was an isolated incident; and
- The Licensee had no history of prior disciplinary action.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following condition:

- 1). A reprimand.

The Committee will consider case # 09-14 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Doughty; Knowlton - motion carries).

7. CASE 09-17 - Licensee not present.

The committee entered executive session for the purpose of reviewing investigation and discussing case # 09-17. Motion: To enter executive session pursuant to 32 M.R.S.A. §90 (A)(3) and 1 M.R.S.A. §405(6)(F) for discussing matters which are confidential by statute and for the purpose of conducting an informal conference concerning case # 09-17. (Doughty; Knowlton – motion carries). The committee entered executive session at 4:15 p.m. and exited at 4:30 p.m. During executive session, the committee discussed options for disposition of case # 09-17.

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the Licensee's license expired on December 31, 2008 and that the Licensee continued to respond and provide emergency medical treatment, in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11 §(1)(30) - Providing treatment at a level for which a person is not licensed or for which a service is not licensed or permitted. Specifically, the Licensee continued to respond to one call and provide patient care.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- This was an isolated incident; and
- The Licensee had no history of prior disciplinary action.

RECOMMENDED ACTION:

That this case be resolved with a Consent Agreement, subject to the following condition:

- 1). A reprimand.

The Committee will consider case # 09-17 resolved and closed upon the ratification by the Board of the Consent Agreement and its execution by the parties. If these conditions are not met, the Committee recommends that the Licensee be notified of his right to request an adjudicatory hearing and any proposed action of the Board, in accordance with Maine EMS Rule, Chapter 12, § 1 (4)(B) (Doughty; Knowlton - motion carries).

APPLICATIONS:

1. Ryan Cote – Informal Review

Case Summary and Rules Violation: After discussion, Metayer moved to recommend that the Board find that the applicant's conviction for Assault in 2006, is in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11 §(1)(4) – Any criminal conviction, subject to the limitation of Maine statute.

Aggravating Circumstances:

- None

Mitigating Circumstances:

- Applicant was immediately remorseful and accepted responsibility for his conduct;
- Applicant was forthright with the committee; and
- Applicant submitted recommendations from parole officer and his Fire Chief.

RECOMMENDED ACTION:

That this case be resolved with a 5 year Letter of Guidance.

The Committee will consider case resolved and closed upon the ratification by the Board. (Metayer; Hand - 3 in favor, 1 opposed - motion carries).

2. Nichole Gehrman – Informal Review

Case Summary and Rules Violation: After discussion, Doughty moved to recommend that the Board find that the Applicants pending charge for Drugs – 5th Degree- Possess Schedule on January 30, 2007 is in violation of Maine EMS Rules (dated September 1, 2006) Chapter 11 §(1)(3) – Violating any of the provisions of 32 M.R.S.A. Chapter 2-B and 32 M.R.S.A. §90-A(5)(B-3) [The use of any drug, narcotic or substance that is illegal under state or federal law]

Aggravating Circumstances:

- Seriousness of charge for narcotics

Mitigating Circumstances:

- Applicant was immediately remorseful and accepted responsibility for her conduct;
- Applicant was forthright with the committee; and
- Applicant submitted several recommendations from co-workers and her Fire Academy Instructor.

RECOMMENDED ACTION:

That this case be resolved with a 3 year non-disciplinary Consent Agreement, subject to the following condition:

- 1) The Applicant will report to Maine EMS any criminal charges filed against Licensee in any State or Federal court within 10 days of charges being docketed. If criminal charges are filed against Licensee in any State or Federal court, Licensee will immediately surrender any license issued by Maine EMS pending resolution of any EMS investigation into the conduct unless Licensee can show good cause as to why the license should continue pending the investigation.
- 2) The Applicant shall neither use nor possess illegal drugs, including marijuana.
- 3) The Applicant shall refrain from excessive use of alcohol.
- 4) The Applicant shall take all prescription medications as prescribed.
- 5) The Applicant may present a written request to Maine EMS to amend or terminate the terms of this Consent Agreement upon discharge of her probation. .

The Committee will consider case resolved and closed upon the ratification by the Board. (Doughty; Knowlton - motion carries).

Respectfully submitted,

Dawn Kinney, EMT-P
Licensing Agent

* See the Maine EMS Board minutes dated September 2, 2009